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December 30, 2010

Christopher Hughey, Esq.
General Counsel's Office
999 E Street, NW
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VIA FACSIMILE (Original to follow by Federal Express)

Re: *Response of American Future Fund in MUR 6402*

Dear Mr. Hughey,

This Response is submitted by the undersigned counsel of behalf of American Future Fund ("AFF"), in response to the Complaint designated as Matter Under Review 6402.

The Complainants – Craig Holman of Public Citizen, Kevin Zeese, and Lisa Graves of the Center for Media and Democracy – suffer from a nagging inability to correctly describe the prevailing legal standards. (It is notable that the better known, and occasionally more reputable, members of the so-called "reform" community did not join this Complaint.) In fact, every single legal conclusion offered by the Complainants stems directly from a misstatement of the appropriate legal standard. Once the correct legal standards are clarified and applied, it is readily apparent that AFF is *not* a "political committee."

AFF has made independent expenditures that are specifically protected under *Citizens United v. FEC*, but the organization's "major purpose" is not Federal campaign activity. Thus, contrary to Complainants' assertions, AFF is not a "political committee," as that term is used in the Federal Election Campaign Act (FECA), and accordingly, is not required to file a Statement of Organization with the Commission or file quarterly financial activity reports. The Commission previously determined, in 2009, that AFF is *not* a "political committee." See MUR 5988 (American Future Fund), Factual and Legal Analysis at 1 ("AFF does not have federal campaign activity as its major purpose and, thus, has not triggered political committee status").

Through November 30, 2010, AFF has spent over \$21 million in calendar year 2010. Approximately 1/3 of its spending for 2010, or \$7,358,236.07, was reported to the FEC on independent expenditure reports for express advocacy communications during this same time period. As demonstrated by AFF's spending, its activities and spending have been entirely consistent with its focus on fiscal responsibility and free market approaches to public spending and finance. 2010 marked the first time in its history that AFF engaged in express advocacy.

AFF has filed both electioneering communications and independent expenditure reports with the FEC, as appropriate, and AFF's FEC-regulated public communications all contain appropriate disclaimers. In short, AFF is, and always has been, in full compliance with FECA and FEC regulations.

I. Organizational Status

AFF is organized under Section 501(c)(4) of the Internal Revenue Code as a social welfare organization. AFF received its IRS approval on October 24, 2008. It is not a Section 527 political organization, nor a FEC-regulated "political committee." AFF engages in a limited amount of express advocacy activity since *Citizens United* which it believes complements its exempt purpose social welfare activities to promote fiscally responsible and free market government actions.

Under applicable Internal Revenue Service (IRS) standards, AFF conducts itself appropriately. Specifically, IRS standards permit a Section 501(c)(4) organization to engage in some "political activity" so long as the organization's **primary purpose** is not the "direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office."¹ While the IRS and the FEC use different standards, it seems highly improbable that a Section 501(c)(4) organization that is in compliance with IRS standards could be found to satisfy the FEC's "political committee" test. As previously noted, no more than 1/3 of AFF's 2010 year to date spending was on express advocacy communications.

The IRS's "primary purpose" determination is made with respect to the full tax year of organizational activity. Thus, any IRS inquiry into the "primary purpose" of AFF cannot be undertaken until *after* December 31, 2010. While we understand that the FEC uses different tests and standards for determining "political committee" status, there is a strong case to be made that this Complaint was filed prematurely. Nevertheless, AFF has acted lawfully at all times, and has never qualified for "political committee" status.

¹ See Rev. Rul. 81-95; Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii).

We have attached here AFF's 2008 and 2009 tax returns, demonstrating that AFF has spent nearly \$30 million since its inception.² In total, AFF has reported \$7,358,236.07 in independent expenditures in 2010. This accounts for less than 1/4 of AFF's spending since its inception and approximately 1/3 of its spending in 2010 alone, and clearly demonstrates that express advocacy communications are not AFF's primary purpose.

We also want to note that the current Commissioners voted 6-0 to approve the Office of General Counsel's recommendation in MUR 5988 to conclude that American Future Fund was not a political committee. This vote took place on February 25, 2009.

II. Complainant Misstates the Commission's "Political Committee Status" Test

The Complainants allege that "American Future Fund has violated the law by raising and spending significant amounts of money to influence the 2010 congressional elections without (1) registering as a political committee, as required by 2 U.S.C. § 433, (2) filing political committee financial disclosure reports required by 2 U.S.C. § 434, and (3) complying with the political committee organizational requirements of 2 U.S.C. § 432." Complaint at ¶ 1. According to the Complainants, "American Future Fund likely qualifies as an 'independent expenditure only' committee." *Id.* at footnote 1.

A. Correct Order of Political Committee Status Test

Complainant mischaracterizes the political committee status test, based on a reading of *Buckley v. Valeo*, 424 U.S. 1 (1976), that the Commission has rejected repeatedly. According to Complainant, the "major purpose" of an organization is to be determined first, followed by an examination of whether the organization has made "expenditures" or received "contributions." Why Complainant would insist on this backwards approach is no mystery. Under its version of the *Buckley* standard, if Complainant can convince an adjudicatory body that an organization's "major purpose" is federal political/campaign activity, then *all* of the organization's spending can be presumed to be an "expenditure," and the distinction between issue advocacy and express advocacy can be disregarded.³ As there is no clearly defined "test" for determining "major purpose," this approach generates precisely the amorphous, ripe-for-abuse "I know it when I see it" approach to political committee status that the so-called "reform" community (including one of the Complainants) has pursued for years as part of its efforts to silence the political speech of those who oppose liberal ideas.

² AFF's 2010 tax return is not required to be filing until May 15, 2011, and extensions are available until November 12, 2011.

³ Complainant writes at Paragraph 17: "the test for 'expenditure' in this case is the statutory standard of whether disbursements have been made 'for the purpose of influencing' any federal election, regardless of whether the disbursements were for any 'express advocacy' communication."

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The Commission, of course, has always utilized the reverse approach; that is, the Commission first asks whether an organization has made "expenditures" or received "contributions," and *then* makes inquiries into the organization's "major purpose," using a relatively undefined set of standards. As the Commission realizes, however, the only way to determine *the* "major purpose" of an organization is by reviewing the organization's activities in terms of "express advocacy" and "issue advocacy." Other factors, such as officer and director statements and other public statements are peripheral to the inquiry. Thus, "expenditures" and "contributions" must be examined before the "major purpose" determination can possibly be made.

The order of the Commission's inquiry is clearly set forth in the Supplemental Explanation and Justification on Political Committee Status:

[D]etermining political committee status under FECA, as modified by the Supreme Court, requires an analysis of both an organization's specific conduct – whether it received \$1,000 in contributions or made \$1,000 in expenditures – as well as its overall conduct – whether its major purpose is Federal campaign activity (i.e., the nomination or election of a Federal candidate).

Many administrative actions, including the recently resolved actions against several 527 organizations . . . , include substantial investigations and case-by-case analyses and determinations of whether a group's fundraising generated "contributions" and whether payments for its communications made independently of a candidate constituted "expenditures," as alternative prerequisites to a determination that a group is a political committee, *prior to any consideration of the group's major purpose*.

Supplemental Explanation and Justification on Political Committee Status, 72 Fed. Reg. 5595, 5597 (Feb. 7, 2007) (emphasis added). The same document further explained, "the major purpose test serves as an additional hurdle to establishing political committee status. Not only must the organization have raised or spent \$1,000 in contributions or expenditures, but it must additionally have the major purpose of engaging in Federal campaign activity." *Id.* at 5601. See also MUR 5694 (Americans for Job Security, Inc.), Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 16 ("Contrary to how the complainants may wish to have it applied, the 'major purpose' test is not the first prong of a two-prong test for political committee status.").

While AFF concedes in this matter that it has made more than \$1,000 in "expenditures," the organization's "major purpose" can only be determined by analyzing the whole of its

activities, which means comparing its express advocacy (expenditure) activity to its issue advocacy efforts. Again, the Commission concluded in 2009 that American Future Fund was not an organization with a "major purpose" of influencing elections for federal office.

Complainants rely on dicta from *Shays v. FEC*, 511 F.Supp.2d 19 (D.D.C. 2007) in support of its argument that "major purpose" should be examined first. They neglect to note that the court concluded that the FEC's approach to determining "political committee" status, as set forth in the Supplemental Explanation and Justification on Political Committee Status, "is not unlawful in any way" because "[w]hile plaintiffs would like the agency to first determine an organization's major purpose, with particular focus on whether they are a 527 group, neither the statute nor judicial precedent establishes any particular 'order of operations' in making the 'political committee' determination." *Shays v. FEC*, 511 F.Supp.2d at 17-18. Contrary to Complainants' assertions, the FEC's established approach was actually upheld in the case it cites.

B. "A" Versus "The" Major Purpose

We also note that Complainant, when describing the applicable "major purpose" standard, repeatedly refers to "*a* major purpose" of the organization, as opposed to "*the* major purpose" of the organization. See, for example, paragraphs 11, 13, 17, 28, and 39 of the Complaint. We presume the Complainants' language is an intentional misstatement of the law, and also presume that the Commission is well-aware that *Buckley* and subsequent case law refers to "*the* major purpose" of an organization. In 2008, the Fourth Circuit Court of Appeals specifically addressed the issue of "*a* major purpose" versus "*the* major purpose." The Fourth Circuit concluded:

Viewed in light of *Buckley*'s goals, it is clear that the importance the plaintiffs attach to the definite article is correct. *Buckley*'s articulation of the permissible scope of political committee regulation is best understood as an empirical judgment as to whether an organization primarily engages in regulable, election-related speech. Thus, the Court in *Buckley* must have been using "*the* major purpose" test to identify organizations that had the election or opposition of a candidate as their only or primary goal -- this ensured that the burdens facing a political committee largely fell on election-related speech, rather than on protected political speech. *Id.* (stating that political committees, as defined by "*the* major purpose" test, are "by definition, campaign related"). If organizations were regulable merely for having the support or opposition of a candidate as "*a* major purpose," political committee burdens could fall on organizations primarily engaged in speech on political issues unrelated to a particular candidate. This would not only contravene both the spirit and the letter of *Buckley*'s "unambiguously campaign related" test, but it would also subject a large quantity of ordinary political speech to regulation.

Subsequent case law affirms the plaintiff's interpretation. To begin, the Supreme Court reaffirmed *Buckley's* "the major purpose" test in *Federal Election Commission v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 107 S. Ct. 616, 93 L. Ed. 2d 539 (1986) ("MCFL"). There, the Court stated that an organization could be classified as a political committee if "the organization's major purpose may be regarded as campaign activity," and referred to regulable political committees as "groups whose primary objective is to influence political campaigns." *Id.* at 262 (emphasis added). Furthermore, *McConnell* recently quoted *Buckley's* "the major purpose" language favorably. See *McConnell*, 540 U.S. at 170 n.64. The Supreme Court has thus not relaxed the requirement that an organization have "the major purpose" of supporting or opposing a candidate to be considered a political committee. And given the Supreme Court's direction on this issue, it is unsurprising that a number of lower courts have also adopted *Buckley's* "the major purpose" test in some form, highlighting that regulation as a political committee is only proper if an organization primarily engages in election-related speech. See, e.g., *California Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1104 n.21 (9th Cir. 2003); *Fed. Election Comm'n v. Machinists Non-partisan Political League*, 210 U.S. App. D.C. 267, 655 F.2d 380, 391-92 (D.C.Cir. 1981); *Richey v. Tyson*, 120 F. Supp. 2d 1298, 1311 (S.D. Ala. 2000); *Volle v. Webster*, 69 F. Supp. 2d 171, 174-76 (D. Me. 1999); *New York Civil Liberties Union, Inc. v. Acito*, 459 F. Supp. 75, 84 n.5, 89 (S.D.N.Y. 1978).

Thus, we are convinced that the Court in *Buckley* did indeed mean exactly what it said when it held that an entity must have "the major purpose" of supporting or opposing a candidate to be designated a political committee. Narrowly construing the definition of political committee in that way ensures that the burdens of political committee designation only fall on entities whose primary, or only, activities are within the "core" of Congress's power to regulate elections. *Buckley*, 424 U.S. at 79. Permitting the regulation of organizations as political committees when the goal of influencing elections is merely one of multiple "major purposes" threatens the regulation of too much ordinary political speech to be constitutional.

North Carolina Right to Life, Inc. v. Leake, 525 F.3d 274, 287-289 (4th Cir. 2008) (internal footnote omitted). See also MUR 5694 (Americans for Job Security, Inc.), Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 16-17 n.61 ("We note that the appropriate test looks to 'the' major purpose, and not simply whether influencing elections is one of several subjective goals....If organizations were regulable merely for having the support or opposition of a candidate as 'a major purpose,' political committee burdens could fall on organizations primarily engaged in speech on political issues unrelated to a particular candidate.").

III. American Future Fund's Express Advocacy Activities Versus Grassroots Issue Advocacy and Other Educational Activities

Having established that the appropriate legal standard is whether AFF has the major purpose of promoting or opposing candidates for federal office, we turn to a discussion of AFF's activities and purpose. Complainants attempt to bolster their poor grasp of the law with a sloppy and incomplete compilation of facts. Complainant notes that AFF maintains a YouTube Channel, where it posts copies of its advertisements, and asserts that this YouTube Channel "contain[s] 158 ads obviously produced 'for the purpose of influencing' the 2010 Congressional elections, see 2 U.S.C. § 431(9)(A)(i), with all or most also expressly advocating the election or defeat of candidates for federal office."⁴ Complaint at ¶ 36. This assertion is so plainly false that one wonders how Mr. Zeese, Ms. Graves, and Mr. Holman could possibly have executed the sworn statements that accompanied their Complaint.⁵ They have lied to the Commission in a document to which they have sworn. As the Commission is aware, "[a]ll statements made in a complaint are subject to the statutes governing perjury and to 18 U.S.C. 1001." 11 C.F.R. § 111.4(c).

Complainants claim that these "158 ads [were] obviously produced 'for the purpose of influencing' the 2010 Congressional elections," yet they have very clearly not even looked at them. (As of the date of this response, there are 160 videos on AFF's YouTube Channel.) Many of these 158 (or 160) ads predate the 2008 election. Several were actually distributed by American Future Fund Political Action, a non-connected federal PAC that shares website space with AFF. Some are simply compilations of news footage. Nearly 40 are interviews from CPAC conferences held in February 2009 and February 2010. Many are issue ads concerning "Obamacare" that were run in early Fall 2009. We encourage the Commission to consider admonishing the Complainants for making false statements. The AFF YouTube site can be seen here: <http://www.youtube.com/user/AmericanFutureFund>.

Complainants lack even a rudimentary grasp of the basic facts of this matter, and apparently made no real fact-finding effort. As a result, the overview of AFF's activities presented by the Complainants is completely unreliable.

⁴ Complainants' assertion that the phrase "for the purpose of influencing" means something broader than "express advocacy" is a product of their wrongly-ordered political committee status test – and is yet another instance of their refusal to correctly represent the law before the Commission.

⁵ We note that one of the Complainants, Public Citizen, has been chastised by three Commissioners in the past for its haphazard approach to filing complaints. See MUR 5694 (Americans for Job Security, Inc.), Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 1 n.1.

As was the case in 2009, AFF "has engaged in a wide range of activities that are not directly related to federal campaign activity," MUR 5988 (American Future Fund), Factual and Legal Analysis at 7. Furthermore, AFF has continued to engage in a wide range of activities after Election Day 2010, and currently intends to continue its issue advocacy activities, unrelated to any election, in 2011 and beyond.

AFF has a history of engagement on many important issues and on engaging in non-election activity. AFF spent considerable time, money, and effort opposing government take-over of healthcare beginning in 2009 and continuing into 2010 during the course of the healthcare debate. AFF has supported the extension of tax cuts and engaged in state-level advocacy on taxes and spending issues throughout 2010. State-level advocacy on lower taxes and fiscal responsibility occurred in South Carolina, California, and Tennessee. In the past, AFF has engaged in advocacy efforts related to a strong national security policy. AFF prepared a nonpartisan congressional scorecard and engaged in nonpartisan door-to-door get out the vote activity to encourage civic engagement by the American public. AFF sponsors a lecture series, bringing speakers to Iowa to speak on important issues. Finally, AFF has been an ethics-watchdog, monitoring members of Congress and their campaigns for illegal behavior, calling on them to take corrective action, and, where appropriate, filing complaints with the Office of Congressional Ethics or the Federal Election Commission.

A. Grassroots Issue Advocacy and Other Educational Activities

AFF spends the great majority of its funds on grassroots lobbying, issue advocacy and educational activities. Citing a *New York Times* article, Complaint alleges that "American Future Fund has now devoted more than half of its spending this year on television advertising on express advocacy campaign ads." This assertion has never, at any time, been correct, and was reported as part of the *New York Times* propaganda efforts in support of the Obama Administration's claims that "secret" and "foreign" money were corrupting the election. In fact, in very same article, the *New York Times* acknowledged that its claim that certain organizations were "pushing the legal limits" was irresponsible because the figures it used to support that claim were meaningless: "A thorough audit would require examining all types of outlays by an organization, including, for example, radio advertisements and direct mail." Michael Luo, "Groups Push Legal Limits in Advertising," *New York Times* (Oct. 17, 2010) available at <http://www.nytimes.com/2010/10/18/us/politics/18express.html>. The information set forth at ¶ 30 of the Complaint proves nothing, other than the low journalistic standards prevalent at the *New York Times*.

In 2010, American Future Fund aired television advertisements, radio ads, published newspaper ads, sent mail, and made phone calls to voters regarding policy issues that would constitute grassroots lobbying and issue advocacy under any of the express advocacy tests.

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American Future Fund filed electioneering communications reports for approximately 20 issue advocacy television advertisements that satisfied the statutory definition of "electioneering communication" at 2 U.S.C. § 434(f)(3). **On electioneering communications alone, AFF spent nearly \$2.5 million in 2010.** These approximately 20 electioneering communications advertisements contained no express advocacy – under either 11 C.F.R. § 100.22(a) or (b) – and qualify as grassroots lobbying and issue advocacy communications under the standards set forth in *FEC v. Wisconsin Right To Life*, 551 U.S. 449 (2007). **This is in addition to the millions of dollars spent on grassroots issue activities that were not reportable to the FEC as electioneering communications or independent expenditures.**

All of AFF's non-express advocacy communications bear the hallmarks of genuine grassroots lobbying and issue advocacy communications, as described by Chief Justice Roberts in *FEC v. Wisconsin Right To Life, Inc.* That is, the:

ads are plainly not the functional equivalent of express advocacy. First, their content is consistent with that of a genuine issue ad: The ads focus on a legislative issue, take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter. Second, their content lacks indicia of express advocacy: The ads do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate's character, qualifications, or fitness for office.

FEC v. Wisconsin Right to Life, Inc., 551 U.S. at 470. Moreover, "[i]ssue advocacy conveys information and educates. An issue ad's impact on an election, if it exists at all, will come only after the voters hear the information and choose – uninvited by the ad – to factor it into their voting decisions." *Id.* And, of course, we must remember that "contextual factors . . . should seldom pay a significant role" in evaluating whether an ad satisfies the *Wisconsin Right to Life* test. *Id.* at 473-474. Finally, "WRTL does not forfeit its right to speak on issues simply because in other aspects of its work it also opposes candidates who are involved with those issues." *Id.* at 472.

Complainants' do not even attempt to undertake an individualized analysis of particular ads that it believes should be subject to regulation, but merely states that *all* of AFF's advertisements (or at least the ads they were able to locate quickly on YouTube) were "obviously produced 'for the purpose of influencing' the 2010 Congressional elections . . . with all or most also expressly advocating the election or defeat of candidates for federal office." To the extent that Complainant offers only conclusory statements, it has not carried its burden of demonstrating that there is reason to believe a violation occurred.

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Complainants expend considerable effort attempting to establish that the express advocacy standard set forth at 11 C.F.R. § 100.22(b) is valid and applicable. See Complaint at ¶¶ 19-21. The validity of section 100.22(b) is largely irrelevant in this matter because AFF fully acknowledges making express advocacy communications – it has filed independent expenditure reports for those communications.⁶ The communications that AFF classifies as grassroots lobbying, education, and issue advocacy do not meet *any* express advocacy standard. None of these communications contain the magic words of 11 C.F.R. § 100.22(a), nor does any contain an “electoral portion” that is described in 11 C.F.R. § 100.22(b) as “unmistakable, unambiguous, and suggestive of only one meaning” of which “reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidates.” With respect to those advertisements that qualify as statutory electioneering communications, each satisfies Chief Justice Roberts’ test in *FEC v. Wisconsin Right to Life, Inc.* for identifying communications that are *not* the functional equivalent of express advocacy.

Copies and scripts from many of AFF’s issue advocacy communications are included in the attached materials. This includes mail, print advertising, and internet materials.

In addition to issue advertising, AFF hosts a lecture series, maintains an active blog and website discussing conservative issues, hosts a website that holds members of Congress accountable for ethical lapses, and engages on conservative, free-market issues at the state level. These educational activities complement AFF’s issue advertising and are further examples of AFF’s grassroots, issues-based education and advocacy.

B. Express Advocacy

Complainant asserts that “American Future Fund has made a cottage industry of specifically creating ads that call on voters to “*vote against*” specific Democrats.” Complaint at ¶ 36. In the months leading up to the 2010 General Election, AFF created and distributed approximately 39 advertisements expressly advocating the election or defeat of a clearly identified candidate. For each of these advertisements, AFF filed either a 48-hour or 24-hour independent expenditure report and included all required disclaimers on its independent expenditures.

AFF acknowledges exercising its constitutionally protected free speech rights and making independent expenditures that urge voters to vote for or against certain candidates for office. However, as we demonstrate in this response, AFF’s major purpose is to engage in grassroots

⁶ Because we do not believe that any aspect of this matter turns on the validity or applicability of 11 C.F.R. § 100.22(b), we have not included discussion of its constitutionality. If any such discussion is needed, we direct your attention to MUR 5974 (New Summit Republicans), Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 4-5, n.10.

issue advocacy and education; all of the required reports were filed and disclaimers included on the independent expenditures. We do not believe, and Complainant has not provided any basis to argue, that such a "cottage industry," if it were to exist, would be in violation of FEC rules and regulations with respect to AFF and its public communications.

IV. The Major Purpose of American Future Fund is Still Grassroots Issue Advocacy and Education

As noted above, AFF has already publicly acknowledged making more than \$1,000 in independent expenditures.⁷ Thus, unlike most prior political committee status cases, the major point of contention in this case is *not* whether the organization engaged in express advocacy, but rather, whether AFF has Federal campaign activity as its "major purpose." In 2009, the Commission answered that question in the negative by a unanimous vote. See MUR 5988 (American Future Fund).

The Commission has no established test for "major purpose" that is reducible to a multi-factor test – *i.e.*, no "bright lines" exist. Rather, the Commission seeks to evaluate the major purpose of an organization based on relatively cryptic judicial statements. The Commission previously explained that "the major purpose doctrine . . . requires the flexibility of a case-by-case analysis of an organization's conduct that is incompatible with a one-size-fits-all rule." Supplemental Explanation and Justification on Political Committee Status, 72 Fed. Reg. at 5601. Those seeking to comply with the law are left to navigate a "totality of the circumstances" approach to "major purpose."

As three Commissioners recently explained, the "major purpose" test is a shield, not a sword:

The "major purpose" test is a judicial construct that spares some organizations from political committee registration and reporting, even though they have raised or spent more than \$1,000 on express advocacy; it is not the first prong of a two-prong test for political committee status. Instead, it is a judicial doctrine designed to protect organizations from the burdens of political committee registration, reporting and

⁷ Following the repeal of critical portions of 11 C.F.R. § 100.57, there does not appear to be clear standard for determining when a donation is treated as a "contribution." We presume that the court-ordered repeal of 11 C.F.R. § 100.57 was also a rejection of the standard put forth in *Survival Education Fund*, but the Commission has not issued any statement on the subject. Regardless of what standard the Commission currently uses for determining when a donation is treated as a "contribution," AFF's fundraising was conducted as is appropriate for a Section 501(c)(4) organization. No funds were solicited for the purpose of supporting or opposing the election of clearly identified Federal candidates or for otherwise engaging in Federal political campaign activity. Rather, all solicitations emphasized that any funds raised would support the general mission of AFF, which is to advocate for fiscal responsibility and free market issues.

limitations, the reach of which is limited to "only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate."

MURs 5977 and 6005 (American Leadership Project), Statement of Reasons of Vice Chairman Petersen and Commissioners Hurter and McGahn at 8.

We bring to the Commission's attention the following passage from a recent decision of the Tenth Circuit Court of Appeals:

There are two methods to determine an organization's 'major purpose': (1) examination of the organization's central organizational purpose; or (2) comparison of the organization's electioneering spending with overall spending to determine whether the preponderance of expenditures is for express advocacy or contributions to candidates.

New Mexico Youth Organized v. Herrera, 611 F.3d 669, 678 (10th Cir. 2010). The Commission's past practices appear to accord reasonably well with this formulation.

A. The Organization's Own Materials and Statements

Past enforcement cases often begin with an examination of the organization's own materials and statements, in accordance with *FEC v. Malenick*, 310 F.Supp.2d 230, 234-35 (D.D.C. 2004) and *FEC v. GOPAC, Inc.*, 917 F.Supp. 851, 859 (D.D.C. 1996). This inquiry is consistent with the first method described in *New Mexico Youth Organized* ("examination of the organization's central organizational purpose").

AFF's Articles of Incorporation, state that AFF "is established primarily to further the common good and general welfare of the citizens of the United States of America by educating the citizens of the United States about public policy issues." A more detailed mission statement of AFF is publicly available on its website. It reads:

The American Future Fund operates as a 501(c)(4) and was formed to provide Americans with a conservative and free market viewpoint to have a mechanism to communicate and advocate on the issues that most interest and concern them. Conservative and free market principles will be under direct attack in America. In light of that, it is imperative there be a voice for conservative principles that sustains free market ideals focused on bolstering America's global competitiveness across the country.

The American Future Fund is established as a multi- state issues advocacy group designed to effectively communicate conservative and free market ideals.

The American Future Fund will continue to educate citizens across the country on common conservative principles.

Mission Statement of American Future Fund, *available at* <http://americanfuturefund.com/about-us>.⁸ Complainants selectively quote this Mission Statement at ¶ 26 of their Complaint. These same documents were examined by the Commission in MUR 5988.

Complainants offer one other organizational statement as evidence. They allege that AFF's "home page highlights its efforts to 'target' what it calls 'liberal politicians.'" Complaint at ¶ 33. This is a knowing and willful misrepresentation. The quoted language comes from a press release issued by AFF regarding four independent expenditures.⁹ See attached press release ("AFF Launches TV Ads in Four States Targeting Liberal Politicians," Sept. 23, 2010). In short, the language noted in the Complaint does not describe, nor could it reasonably be construed as describing, AFF's overall efforts.

In short, the Complainant has not provided any information that in any way suggests that the "major purpose" of AFF is something other than the purpose set forth in its Articles of Incorporation or in its website mission statement.

B. "Sufficiently Extensive Spending"

Complainant also pursues the novel theory that "the enormity of American Future Fund's express independent advocacy expenditure activity [sic] is likely to establish American Future Fund's 'major purpose' as influencing the 2010 federal elections." This language is derived from *Massachusetts Citizens For Life, Inc. v. FEC*, 479 U.S. 238 (1986). In that case, the Supreme Court noted that "should MCFL's independent spending become *so extensive* that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee." *Id.* at 262 (emphasis added). See also Supplemental Explanation and Justification on Political Committee Status, 72 Fed. Reg. at 5601. The Complainant does not explain how it reaches the conclusion that AFF has satisfied the "so extensive" test, but appears to presume that the test can be met simply crossing some unspecified numeric threshold.

One recent enforcement decision (involving Respondent) includes language asserting that "[t]he Commission has consistently applied this standard in past matters." See MUR 5988 (American Future Fund), Factual and Legal Analysis at 6, n.2. We disagree with this characterization. In past matters, the Commission has *cited* the "so extensive" language of *Massachusetts Citizens For Life, Inc.*, and perhaps even claimed to *use* the standard, but it has

⁹ This press release was referenced in the *New York Times* article cited elsewhere in the Complaint.

never consistently applied the standard in a way that demonstrates discernible factors. Three Commissioners appear to agree with this assessment:

Though an organization could theoretically satisfy 'the major purpose' test through independent spending that is 'so extensive' that the organization's major purpose may be regarded as campaign activity, neither Congress, nor the Commission, nor the courts have established any guidance on what constitutes sufficiently extensive spending." MUR 5694 (Americans for Job Security, Inc.), Statement of Reasons of Vice Chairman Petersen and Commissioners Hunter and McGahn at 16-17.

Two of these Commissioners (Petersen and Hunter) suggested separately that the Commission may lack authority to apply the "so extensive" standard because it has never been explained, stating "without any 'bright-line' rules that are easily understood and followed by those subject to them – contributors, recipients, and organizations – political committee status cannot be imposed on an entity." MUR 5842 (Economic Freedom Fund), Statement of Reasons of Vice Chairman Petersen and Commissioner Hunter at 24.

The Tenth Circuit Court of Appeals recently determined that the "major purpose" standard cannot be satisfied by simply crossing an arbitrary numeric threshold. The court considered the validity of New Mexico's "political committee" standard, which provided that "a \$500 a year expenditure for political purposes is sufficient to establish that the organization's major purpose is political and thus to trigger the requirement that the organization register as a political committee." *New Mexico Youth Organized v. Herrera*, 611 F.3d 669, 677 (10th Cir. 2010). The court concluded:

here, an organization that spends \$500 on an election-related expense is automatically subject to the reporting requirements and other limitations imposed on a political committee, regardless of what percentage of operating funds that \$500 constitutes or what else the organization spends its resources on. To automatically classify such organizations as political committees contradicts the Supreme Court's repeated admonition that only organizations that have "the major purpose" of electing or defeating a candidate may be forced to register as political organizations.

Id. at 679.

Assuming for the sake of argument that the "so extensive" standard may be fairly applied in this matter, that standard cannot possibly be satisfied by simply crossing an arbitrary numeric threshold, but rather, must necessarily be based on some proportional comparison of Federal campaign activity to overall organizational activity. See *New Mexico Youth Organized v. Herrera*, 611 F.3d at 678 (describing the second method of determining an organization's "major

purpose" as a "comparison of the organization's electioneering spending with overall spending to determine whether the preponderance of expenditures is for express advocacy or contributions to candidates").

By inquiring into an organization's "major purpose," it is implied that one is evaluating all of the organization's various purposes in order to determine if Federal campaign activity is indeed the organization's "major purpose." As the Tenth Circuit explained in *New Mexico Youth Organized*, it cannot be the case that if an organization simply spends x amount of dollars on campaign activity, then its "major purpose" is automatically campaign activity.

For example, the *Wall Street Journal* recently reported that the American Federation of State, County and Municipal Employees (AFSCME) "is now the biggest outside spender of the 2010 elections" and "is spending a total of \$87.5 million on the elections after tapping into a \$16 million emergency account to help fortify the Democrats' hold on Congress." Brody Mullins and John D. McKinnon, "Campaign's Big Spender; Public-Employees Union Now Leads All Groups in Independent Election Outlays," *Wall Street Journal*, Oct. 22, 2010 available at http://online.wsj.com/article/SB10001424052702303339504575566481761790288.html?mod=demITP_h. (This figure was raised to \$91 million in an October 26 report in the *New York Times*.¹⁰) Not surprisingly, Complainants (as of the date of this filing) have not argued to the FEC that the "enormity" of AFSCME's election spending, which is far greater than that of AFF (by an order of magnitude of at least 10), means that AFSCME has the "major purpose" of engaging in Federal campaign activity. Complainants' argument is not rooted in any actual legal authority, is contrary to recent court decisions, and appears to be of value only in filing harassing and politically motivated complaints against those who do not support their far-left agendas. Where the object of the inquiry is "the major purpose" of the organization, the "enormity" of the organization's political expenditures is meaningful only in relation to its overall activities.

The General Counsel's Brief issued in MUR 5542 (Texans For Truth) seems to reflect this view. For example, at pages 11-12, the General Counsel:

In its entire existence, TFT has engaged in no activities (other than routine administrative activities and defending itself in this matter) that did not have to do with the presidential election....TFT was not formed until the week of the Republican National Convention and engaged in no activity after the election. It never advocated a candidate in, or even commented on, any other 2004 election, either federal or non-federal, and engaged in no advocacy, advertising, lobbying or any other activity that did not directly relate to the 2004 presidential election.

¹⁰ Steven Greenhouse, "Union Spends \$91 Million on Midterms," *New York Times*, Oct. 26, 2010, available at <http://thecaucus.blogs.nytimes.com/2010/10/26/union-spends-91-million-on-midterms/>.

While perhaps not fully articulated, it appears that – in MUR 5542 at least – the Commission approached the “so extensive” question not in terms of nominal dollars spent, but in terms of campaign activities *in relation to* other activities. In other matters from the same period, however, the Commission’s methodology is far less clear.

A simple comparison of the amount spent by AFF on express advocacy communications (\$7,358,236.07 in 2010) to the total amount spent on all of their activities, including non-express advocacy activities (nearly \$9 million in 2008-2009 and over \$21 million in 2010), demonstrates quite clearly that the “major purpose” of AFF is *not* Federal campaign activity. Rather, the major purpose of AFF continues to be grassroots issue advocacy and education.

V. Conclusion

For the foregoing reasons, we respectfully request that the Commission dismiss this complaint, and take no further action.

Sincerely,


A handwritten signature in dark ink, appearing to read 'Jason Torchinsky', with a long horizontal flourish extending to the right.

Jason Torchinsky
Karen Blackistone

Counsel to American Future Fund

American Future Fund

AFF Press release - September 23, 2010

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September 23, 2010

AFF Launches TV Ads in Four States Targeting Liberal Politicians

FOR IMMEDIATE RELEASE: Thursday, September 23, 2010

Contact: Rebecca Carton (515) 720-5250

Ads expose four Democrats' support of Nancy Pelosi's liberal agenda

Des Moines, IA—Today, American Future Fund (AFF) launched TV ads in Texas, New Mexico, South Dakota, and Washington entitled "Fork in the Road." The ads expose the liberal voting records of Reps. Chet Edwards, Martin Heinrich, Stephanie Herseth Sandlin, and Democrat Denny Heck.

The Congressmen highlighted in the ads have each voted with Pelosi more than 90 percent of the time. Pelosi's agenda includes a historic amount of wasteful spending and mountainous debt. She also spearheaded the government-run health plan resulting in **\$500 billion in Medicare cuts**.

But it doesn't end there. Pelosi also raised the national debt and supported the failed stimulus – a vote that did little more than spend millions of taxpayer dollars. Not only was the stimulus wasted spending, **but Americans still lost nearly 3 million jobs**. With these liberals at Pelosi's side in Washington, the future will be more of the same.

AFF Spokesperson Nick Ryan stated, "Their records speak for themselves. It's clear these politicians have chosen to support Pelosi rather than do what's best for the American people. Pelosi and her allies in Congress have done nothing but burden our country with outrageous spending and debt."

The ads may be viewed [here](#).

###

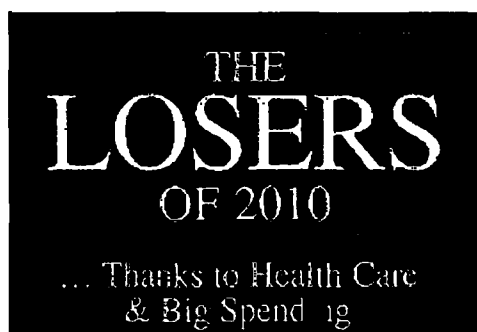


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Multimedia



The Losers of 2010. [See the ad here.](#)


[Click here for AFF's Multimedia Archive](#)

Paid for by the American Future Fund Political Action.

<http://political.americanfuturefund.com>

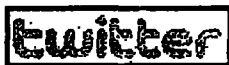
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The American Future Fund is a 501(c)(4) organization which primarily focuses on nonpartisan education and advocacy on important national issues. American Future Fund Political Action is a federal political committee which primarily helps members elect candidates who reflect our values through a variety of activities aimed at influencing the outcome of the next election. American Future Fund Political Action and the American Future Fund are separate organizations.

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AmFutureFund

1. Judge Calls Health Law Unconstitutional: A federal judge ruled Monday that a central

- *Name American Future Fund*
- *Location Des Moines, Iowa*
- *Web <http://AmericanFu...>*
- *Bio Conservative 501(c)(4) formed to provide Americans with conservative and free market viewpoints, advocating conservative issues and conservative legislation.*

<http://bit.ly/hgF0lE> 11:56 AM Dec 13th via twitterfeed

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- **898Tweets**
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12. Former President George W. Bush Joins Sean Hannity in Studio: -Fox News This is a rush transcript from "Hannity,...
<http://bit.ly/byuJju> 9:26 AM Nov 18th via [twitterfeed](#)
13. American Rights, American Responsibilities: Gov. Bobby Jindal, National Review Online Big government invites cor... <http://bit.ly/cfV8Wq> 9:26 AM Nov 18th via [twitterfeed](#)
14. Lame Duck Legislation: By: Katrina Trinko, National Review Online The lame duck session, which began on Monday a...
<http://bit.ly/aYiniF> 9:26 AM Nov 18th via [twitterfeed](#)
15. The GOP Earmark Victory: The party takes a big first step toward public trust Maybe the Republicans are listenin...
<http://bit.ly/cCy3uC> 9:54 AM Nov 16th via [twitterfeed](#)
16. It Was Rubio's Tuesday: The most important freshman senator. Stephen F. Hayes, The Weekly Standard At 8:30 a.m. ...
<http://bit.ly/cJ5Ym4> 2:17 PM Nov 8th via [twitterfeed](#)
17. New House Judiciary Chairman to Obama: Prepare for Investigations: By: Jim Forsyth Veteran Congressman will head...
<http://bit.ly/9K9MLz> 7:20 AM Nov 5th via [twitterfeed](#)
18. After electoral drubbing, Democrats must now deal with ethics trials: By: Susan Crabtree Fresh from a stinging m...
<http://bit.ly/97LEvv> 7:20 AM Nov 5th via [twitterfeed](#)
19. American Future Fund Asks House Democrats 'How's The Water?': FOR IMMEDIATE RELEASE: Tuesday, November 2, 2010 Con...
<http://bit.ly/bhyKf1> 9:29 PM Nov 1st via [twitterfeed](#)
20. Requiem for the Pelosi Democrats: Wall Street Journal by John Fund October 30, 2010 It took Democrats in the House...
<http://bit.ly/9hEry9> 7:28 PM Nov 1st via [twitterfeed](#)

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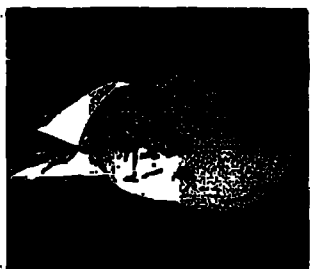
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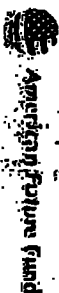
Two-way (sending and receiving) short codes:

Country	Code	For customers of
Australia	• 0198089488	Telstra
Canada	• 21212	(any)
United Kingdom	• 86444	Vodafone, Orange, 3, O2
Indonesia	• 89887	AXIS, 3, Telkomsel
Ireland	• 51210	O2
India	• 53000	Bharti Airtel, Videocon
Jordan	• 90903	Zain
New Zealand	• 8987	Vodafone, Telecom NZ
United States	• 40404	(any)

AFF Website created in 2010 to encourage candidate to sign ATR no taxes pledge



TOM IS THE TAXMAN



Why Won't Tom Campbell Sign the Americans for Tax Reform Taxpayer Protection Pledge?

"He (Campbell) won't take the no tax pledge because that would 'handcuff' a governor. He wants 'flexibility.' In fact, he proposed a one-year gas tax increase to balance the state budget rather than borrow and raid local treasuries."

"Campbell, however, said he would not sign a No-Tax Pledge because, he argued, no one can anticipate every situation that might arise."

Taxpayer Protection Pledge Petition

Tom Campbell:

We encourage you to sign the Americans for Tax Reform Taxpayer Protection Pledge.

First Name

Last Name

City

Tax Increases that Campbell Supported

US-Canada free-trade pact tax

For Single Taxpayers: 1980

6-cent-per-gallon gas tax

For California: 1980

For California: 1980

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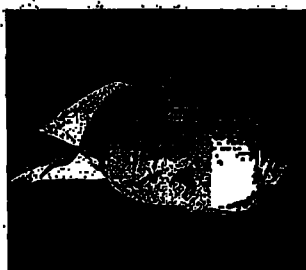
For California: 1980

For California: 1980

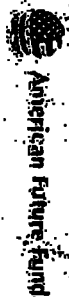
For California: 1980

For California: 1980

AF-F Website created in 2010: to encourage candidate to sign ATR no taxes pledge



TOM CAMPBELL TAXMAN



Why Won't Tom Campbell Sign the Americans for Tax Reform Taxpayer Protection Pledge?

"He [Campbell] won't take the 'no tax' pledge because that would 'handcuff' a governor. He wants 'flexibility.' In fact, he proposed a one-year gas tax increase to balance the state budget rather than borrow and raid local treasuries."

"Campbell, however, said he would not sign a No-Tax Pledge because, he argued, no one can anticipate every situation that might arise."

Taxpayer Protection Pledge Position

Tom Campbell:

We encourage you to sign the Americans for Tax Reform Taxpayer Protection Pledge.

First Name

Last Name

City

Tax Increases that Campbell Supported

- 15 cents per gallon gas tax (Los Angeles Times 4/3/05)
- 6-cent-per-gallon gas tax (The Los Angeles Daily Breeze 2/19/02)
- The Internet broadband tax (Los Angeles Times 10/16/00)
- 60¢ national sales tax (Los Angeles Times 10/16/00)
- Higher state income tax (Los Angeles Times 10/16/00)
- Higher state sales tax (Los Angeles Times 10/16/00)
- Higher state income and sales taxes (Los Angeles Times 10/16/00)
- 50¢ billion in higher income and sales taxes (Los Angeles Times 10/16/00)
- 25-cent-per-gallon gas tax (Los Angeles Times 10/16/00)
- Carbon emissions tax (Los Angeles Times 10/16/00)
- Higher utility utility charges (Los Angeles Times 10/16/00)
- Sales tax on services (Los Angeles Times 10/16/00)

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AFF
Spring
2010
Health-
care
print ad
in
Politico
during
the pre-
vote
time
period



Karen English
U.S. Rep - Arizona 6



Dan Rostenbly
U.S. Rep - California 1



Michael H. Lehman
U.S. Rep - California 10



Lynn Schust
U.S. Rep - California 40



George 'Reddy' Barden
U.S. Rep - Georgia 7



Don Johnson
U.S. Rep - Georgia 10



Larry LaRocco
U.S. Rep - Idaho 1



Dan Rostenbly
U.S. Rep - Illinois 5



Jill Long
U.S. Rep - Indiana 4



Frank J. McCloskey
U.S. Rep - Indiana 8



Neil Smith
U.S. Rep - Iowa 4



Dan Claitor
U.S. Rep - Kansas 4



Tom Barlow
U.S. Rep - Kentucky 1



Peter Hoagland
U.S. Rep - Nebraska 2



James Gibney
U.S. Rep - Nevada 1



Dick Swift
U.S. Rep - New Hampshire 2



Herbert Klein
U.S. Rep - New Jersey 8



George H. Rader
U.S. Rep - New York 1



Martin Lancaster
U.S. Rep - North Carolina 3



David Price
U.S. Rep - North Carolina 4



David S. Mann
U.S. Rep - Ohio 1



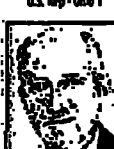
Ted Strickland
U.S. Rep - Ohio 6



Eric Fingerhut
U.S. Rep - Ohio 19



Marjorie Margulies
U.S. Rep - Pennsylvania 13



Jack Brooks
U.S. Rep - Texas 9



Bill Sarpal
U.S. Rep - Texas 13



Karen Shepherd
U.S. Rep - Utah 2



Leslie Byrne
U.S. Rep - Virginia 11



Mark Conwell
U.S. Rep - Washington 1



Robyn Olson
U.S. Rep - Washington 3



Jay Inslee
U.S. Rep - Washington 4



Tom Foley
Speaker of the House



Mike Amodeo
U.S. Rep - Washington 9



Peter Blum
U.S. Rep - Wisconsin 1



Jim Saxton
U.S. Senator - New Jersey



Harris Wofford
Governor - Pennsylvania

THE LOSERS OF 1994

... Thanks to Health Care!

In 1993 and 1994, these elected officials were swarmed at Town Hall meetings by angry citizens, suffered guilt by association when their party leaders tried to jam government-run health care down their throats — and ultimately lost re-election.

The polls showed it: Liberals and Moderates hemorrhaged votes with senior citizens, rural voters, women and *especially* Independents.

Sound familiar?

It sure should to Blue Dogs and Senators who represent red states now.

Sixteen years later, for conservatives this is the gift that keeps on giving. Some call it a "Public Option" or "Health Care Reform." Others call it a Majority Killer.

Keep at it, Liberals. You have *nothing* to lose but your majorities!

1994 was a great year.



American Future Fund

www.AmericanFutureFund.com

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AFF
Spring
2010
Health-
care
print ad
in
Politico
during
the pre
vote
time
period



**"You can put
lipstick on a pig —
it's still a pig."**

— Barack Obama, 9/9/08

President Obama's health care "summit" is this week.

But the President and Congressional liberals still refuse to listen to Americans and start over on health care.

Instead, they want to "build" on what they already have. But that means "building" on:

- A massive spending bill rushed through the Senate on Christmas Eve;
- Billions in backroom deals to win over key senators — what some people call "legislative bribes";
- \$500 billion in Medicare cuts; and
- Crushing mandates and tax hikes on small businesses.

President Obama and Congressional liberals are still trying to jam the same bad health care bills down the throats of American patients.

Like putting lipstick on a pig.

Start Over and Get Health Care Right



American Future Fund
Advancing Conservative Policy and Values

www.AmericanFutureFund.com

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AFF
Spring
2010
Health-
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print ad
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Keep Walking the Plank, House Members!



It's like a bad pirate movie.

Blue Dogs and moderates sticking their necks out to support Nancy Pelosi's agenda of big government, higher taxes, and more regulation.

They cast liberal votes that could risk their careers, while the bills they support go nowhere in the Senate.

It's already happened with cap-and-trade. And government-run health care is next.

House members cast bad votes, while the Senate dithers and leaves them hanging.

**Keep it Up, Liberals.
You Have Nothing to Lose But Your Majorities!**



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News article on AFF involvement in SC tax issue

Home » SC Politics » Lord Criticized For "Boeing Bailout"

Lord Criticized For "Boeing Bailout"

By fitsnews - on April 6, 2010

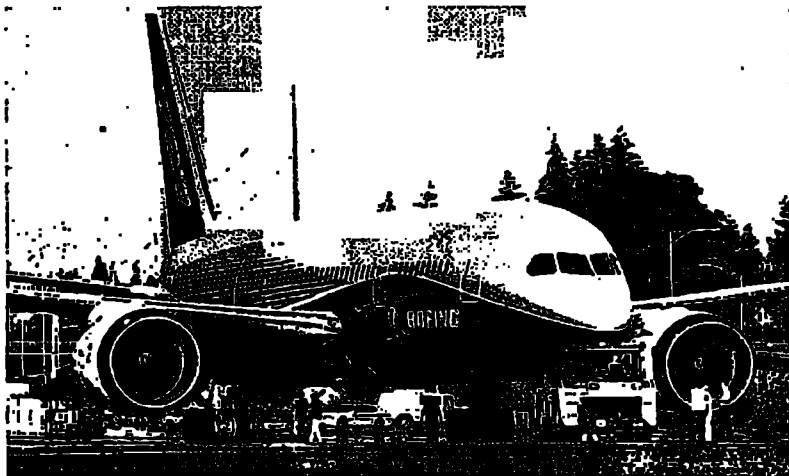
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By FITSNews || Republican Attorney General candidate Leighton Lord is facing criticism for something that most politicians would typically consider to be a "plus" – the leadership role he played in an economic development deal that is bringing thousands of new jobs to the Palmetto State.

Such is the new political landscape we're operating in, people ... where any government-funded "economic development" effort is automatically viewed with a large (and healthy) dose of skepticism.

Lord is being criticized by a group called the American Future Fund (a.k.a. these guys) for his role as the corporate attorney who negotiated the deal that brought Boeing to South Carolina. In fact, an entire series of ads is being planned to target the massive taxpayer-funded incentives package that the Chicago-based aircraft manufacturer received in exchange for agreeing to locate its second 787 Dreamliner facility in North Charleston.

Since Boeing's decision was first announced last October, the size of the company's incentives deal – which AFF is calling a "bailout" – has mushroomed to more than twice the original amount approved by lawmakers.

Ultimately, it could cost taxpayers as much as \$900 million.

"With businesses across South Carolina struggling, the power brokers in Columbia gave a sweetheart deal to one company," AFF charges. "(They) billed it as 'economic development' for Charleston but it's really massive new debt and taxpayers are on the hook — with no real accountability for Boeing to keep its end of the deal."

To check out AFF's "Boeing Bailout" site for yourself, [click here](#).

Lord told WYFF TV 4 (NBC – Greenville, S.C.) that the attack against him was an attempt to pit one region of the state against another.

"I think someone out there is trying to play against regions," Lord told the station. "They want people in the Upstate to be against people in Charleston. The ad is only being played in the Upstate not Charleston. Go figure."

Also running for Attorney General as Republicans are former prosecutor Robert Bolchoz and Alan Wilson, son of U.S. Rep. Joe Wilson. Columbia attorney Matthew Richardson is running as a Democrat.

Tags: american future fund, Boeing, Leighton Lord

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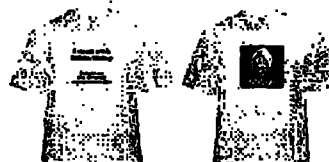
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End Legislative Reimbursements

AFF press release on major health care print ad in spring 2010



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IowaPolitics.com Press Releases

American Future Fund: Runs full-page "Teleprompter" ad in USA Today
3/17/2010

FOR IMMEDIATE RELEASE: Wednesday, March 17, 2010

Contact: Jill Latham (515) 720-5250

When an unscripted President says government - run health care is bad, Congress should listen

Des Moines, IA—American Future Fund ran a full-page color ad in USA Today and Politico today titled "Teleprompter." The ad points out that even President Obama believes a number of provisions "got snuck in" to the health care bill that would essentially put the government between you and your doctor, contrary to the President's other rhetoric.

AFF President Sandy Greiner stated, "The truth accidentally slipped out during a speech where the President was NOT using a teleprompter. Evidently, that's when the real truth comes out."

Greiner continued, "AFF has been beating this drum since last year and 60% of the American people agree with the President when he is not using a teleprompter. When will members of Congress start listening?"

Greiner concluded, "Of course provisions "got snuck" into health care legislation. That is how Sen. Ben Nelson got the Cornhusker Kickback. That is how Sen. Mary Landrieu got the Louisiana Purchase. Americans oppose the potential for a government takeover of health care now more than ever. Members of Congress should listen to President Obama and start over on health care legislation NOW."

The ad will run in USA Today and POLITICO

View "Teleprompter" ad here.

Ad Script: "Teleprompter"

What Happens When There's No Teleprompter?

Sometimes the Truth Accidentally Slips Out

It's one of President Obama's favorite health care lines:

"...if you've got health insurance, you like your doctors, you like your plan, you can keep your doctor, you can keep your plan."

The President has made that pledge hundreds of times. He is also fond of implying that other people are lying to the American people by saying:

"...no matter what you've heard, if you like your doctor or health care plan, you can keep it."

But the President wasn't using his ever-present teleprompter on January 29th. And then the truth accidentally slipped out:

"...we said from the start that it was going to be important for us to be consistent in saying to people if you can have your — if you want to keep the health insurance you got, you can keep it, that you're not going to have anybody getting in between you and your doctor in your decision making. And I think that some of the provisions that got snuck in might have violated that pledge."

— President Obama, Baltimore, MD, 1/29/10

The President made a slip...and spoke the truth. He admitted that his numerous prior assurances were wrong and that ObamaCare would make it impossible for millions of Americans to keep their current health care plans, even if they like them.

The President would have us believe that massive interlocking provisions virtually eliminating the ability to retain current insurance coverage and requiring hundreds of pages of documentation "got snuck in" by some unknown, nefarious operative. This explanation is beyond lame, it is preposterous.

According to non-partisan experts like the Congressional Budget Office and the Lewin Group, the liberal health care bills now being debated in Congress will cause millions of Americans to lose their current health care coverage, or be forced to find a new doctor.

Americans are already worried about other provisions that "got snuck" into the bills —the Cornhusker Kickback, the Louisiana Purchase, and the special deals for unions.

Americans oppose \$500 billion in Medicare cuts, new taxes on small businesses and medical supplies, and the potential for a government takeover of health care.

When even the President admits that his plan would cause Americans to lose their current coverage, it's time to listen to the more than 60% of Americans who want Congress to start over and get health care right.



Tell Congress: Start Over and Get Health Care Right (202) 225-3121

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Sample from AFF's regular annual legislative scorecard (2010 is the third year of the scorecard)

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South Carolina AFF Score Card

Senate

- Issue #1 (Government Takeover of Healthcare H.R. 3590)
 Issue #2 (Increasing statutory limit on the public debt H.J. RES. 45)
 Issue #3 (Tarp II, Restoring American Financial Stability Act of 2010 H.R. 4173)
 Issue #4 (American Recovery and Reinvestment Act of 2009 H.R. 1)
 Issue #5 (Cash for Chunkers H.R. 2346)
 Issue #6 (To amend the Truth in Lending Act H.R. 627)
 Issue #7 (To provide D.C. a voting seat and the Senate of Utah an additional seat S. 160)
 Issue #8 (To amend title XXI of the Social Security Act H.R. 2)
 Issue #9 (\$26 Billion Jobs and Border Security Amendment H.R. 1586)
 Issue #10 (Confirmation Sonia Sotomayor, Vote)
 Issue #11 (Confirmation Elena Kagan, Vote)

United States : Senate

	Score	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11
DeMint, Jim- (R - SC)	90.9	N	N	N	N	N	Y	N	N	N	N	N
Graham, Lindsey- (R - SC)	63.63	N	N	N	N	Y	Y	N	N	N	Y	Y

Senate

House

- Issue #1 (Student Aid and Fiscal Responsibility Act of 2009 H.R. 3221)

Issue #2 (Restoring American Financial Stability Act of 2010 H.R. 4173)

Issue #3 (Government Takeover of Healthcare H.R. 3590)

Issue #4 (Increasing statutory limit on the public debt H.J. RES. 45)

Issue #5 (American Clean Energy and Security Act of 2009 H.R. 2454)

Issue #6 (American Recovery and Reinvestment Act of 2009 H.R. 1)

Issue #7 (Cash for Clunkers H.R. 2346)

Issue #8 (To amend title XXI of the Social Security Act H.R. 2)

Issue #9 (Omnibus Appropriations Act, 2009 H.R. 1105)

Issue #10 (\$26 billion Teacher Stimulus Package, 2010 H.R. 1586)

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	Score	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10
Spratt, John (D-SC)	0	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Clyburn, Jim (D-SC)	0	Y	Y	Y	Y	Y	NV	Y	Y	Y	Y
Barrett, Gresham (R-SC)	80	NV	N	N	N	N	N	Y	N	N	N
Brown Jr., Henry (R-SC)	90	N	N	N	N	N	N	Y	N	N	N
Wilson, Joe (R-SC)	90	N	N	N	N	N	N	Y	N	N	N
Inglis, Bob (R-SC)	90	N	N	N	N	N	N	Y	N	N	N

House

AFF major print ad from Spring 2010 - published
in USA Today and Politico

What Happens When There's No Teleprompter?



Sometimes the Truth Accidentally Slips Out

It's one of President Obama's favorite health care lines:

"...if you've got health insurance, you like your doctors, you like your plan, you can keep your doctor, you can keep your plan."

The President has made that pledge hundreds of times. He is also fond of implying that other people are lying to the American people by saying:

"...no matter what you've heard, if you like your doctor or health care plan, you can keep it."

But the President wasn't using his ever-present teleprompter on January 29th. And then the truth accidentally slipped out:

"...we said from the start that it was going to be important for us to be consistent in saying to people if you can have your — if you want to keep the health insurance you got, you can keep it, that you're not going to have anybody getting in between you and your doctor in your decision making. And I think that some of the provisions that got snuck in might have violated that pledge."

— President Obama, Baltimore, MD, 1/29/10